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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,765	01/23/2002	Eric Begleiter	70126-47961	8373
21874	7590	03/10/2004	EXAMINER	
EDWARDS & ANGELL, LLP P.O. BOX 55874 BOSTON, MA 02205			DI NOLA BARON, LILIANA	
			ART UNIT	PAPER NUMBER
			1615	

DATE MAILED: 03/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/031,765

**Applicant(s)**

BEGLEITER, ERIC

**Examiner**

Liliana Di Nola-Baron

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 December 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-72 is/are pending in the application.
- 4a) Of the above claim(s) 29-72 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☒ Claim(s) 12, 21 and 27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election with traverse of Group I, claims 1-28 is acknowledged. The traversal is on the ground(s) that the claims in Groups I-III are related, as the product of claims 1-28 can be made by the process of claims 29-52 using the apparatus of claims 53-62. This is not found persuasive because, as Applicant agrees in the traverse, the product claimed in Group I can be made by a process other than the process claimed in Group II (the laser interference process).

The requirement is still deemed proper and is therefore made FINAL.

2. Applicant's arguments with regard to the apparatus and process of making the product have been found persuasive, since the process of Group II cannot be performed using an apparatus different from the apparatus claimed in Group III. Accordingly, Group II and Group III are rejoined.

3. Newly submitted claims 63-72 are directed to inventions that are independent or distinct from the invention originally claimed for the following reasons: claims 63-68 are directed to products comprising a pattern produced by laser light and claims 69-72 are drawn to a method of producing an optical pattern. The product of Group I can be made by a process other than the laser interference process, thus claims 63-72 are distinct from the invention elected by Applicant.

Accordingly, claims 1-28 will be examined in this office action. Claims 29-72 are withdrawn from consideration as being directed to a non-elected invention.

***Claim Objections***

4. Claims 12, 21 and 27 are objected to because of the following informalities: in claim 12, the words “hydroxypropylmethylcellulose” and “hydroxypropylcellulose” are misspelled. In claim 21, the word “microrelief” is misspelled. In claim 27, the word “comprises” is misspelled. Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 21 and 25-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Regarding claim 21, the phrase “or effect produced by said microrelief a high melting point wax” in line 3 renders the claim indefinite, because the meaning of said phrase is not clear.

8. Claim 25 recites the limitation "the outer configuration of the core" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

9. Claims 26-27 recite the limitation "the modification" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Begleiter (U.S. Patent 4,668,523).

The patent discloses food products provided with holographic images (See col. 1, lines 28-31) and teaches that the edible holographic element may constitute the decorative part of confections or other food products and can be placed on top a sucrose sheet of hard candy (See col. 3, lines 25-34). Confections are defined as sweetened mixtures of drugs, thus the patent provides an edible holographic layer on top of a sweetened mixtures of drugs. Additionally, the patent teaches that the holographic element may be prepared from organic polymers, including polysaccharides, such as cellulose, seaweed, pectin and gums, and the organic polymer may be combined with plasticizers and sweeteners, including dextrose (See col. 1, line 60 to col. 2, line 56), thus the patent meets the limitations of claims 1-3, 7, 9-12 and 18-24 of the instant application, since the organic polymers disclosed by the prior art are thermoformable and stable. The response to temperature and humidity claimed by Applicant in claims 3, 19 and 21-24 is inherent to the composition.

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With regard to the tablet and capsule claimed in instant claims 4, 5 and 17, tablets and capsules are species of the genus comprising the confections, food products and hard candies disclosed by the prior art.

With respect to the diffraction grating claimed in instant claims 6 and 8, the patent teaches that the diffraction gratings are transferred to the edible polymer (See col. 1, lines 34-39).

Regarding claim 13, the patent discloses a range of 5-30% organic polymer combined with sugar (See col. 2, line 67 to col. 3, line 2), thus the lower limit disclosed by the patent meets the limitations of the range claimed by Applicant.

With respect to claim 14, the patent teaches that the holographic element is placed on top of a sucrose sheet of a hard candy (See col. 3, lines 25-31), and the mixture is brought into contact with the diffraction mold by pressing (See col. 3, lines 55-61), thus the holographic element is inherently applied by laminating, as claimed by Applicant.

With regard to claims 15 and 16, the patent teaches that the organic polymer is dissolved by heating (See col. 3, lines 43-55) and includes polysaccharides, such as cellulose, seaweed, pectin and gums among the organic polymers used in the invention (See col. 2, lines 5-17).

Regarding claim 25, the patent contemplates products, which are not sticky (See col. 3, lines 3-6). Lack of stickiness inherently reduces twinning.

With regard to claims 26-28, the patent discloses lollipop-type products (See col. 3, lines 25-34), which have a convexly curved face and a planar bottom surface, as claimed by Applicant.

The compositions disclosed by Begleiter meet the limitations of claims 1-28 of the instant application, as the patent discloses food products comprising edible holographic elements made of organic polymers, as claimed by Applicant. Thus, the patent anticipates the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Liliana Di Nola-Baron whose telephone number is 571-272-0592. The examiner can normally be reached on Monday through Thursday, 8:30AM-7:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K Page can be reached at 571-272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Se Ng*

March 2, 2004

**THURMAN K. PAGE**  
**SUPERVISORY PATENT EXAMINER**  
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